

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, March 16, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gene Carroll, Roger Larson, Gerry Krieser, Dan Marvin, Melinda Pearson, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor; Marvin Krout, Mike DeKalb, Ed Zimmer, Brian Will, Becky Horner, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held March 2, 2005. Motion for approval made by Marvin, seconded by Carroll and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05013; SPECIAL PERMIT NO. 1006F; SPECIAL PERMIT NO. 05007; SPECIAL PERMIT NO. 05008, WEST VAN DORN HEIGHTS COMMUNITY UNIT PLAN; SPECIAL PERMIT NO. 04069, WHITETAIL RUN COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 04031, WHITETAIL RUN; COUNTY SPECIAL PERMIT NO. 04070, WHITETAIL RUN COMMUNITY UNIT PLAN; COUNTY PRELIMINARY PLAT NO. 04032; WHITETAIL RUN; and COUNTY FINAL PLAT NO. 05011, BEAVER CREEK ADDITION.**

Item No. 1.2, Special Permit No. 1006F; Item No. 1.4, Special Permit No. 05008; Item No. 1.5a, Special Permit No. 04069; Item No. 1.5b, Preliminary Plat No. 04031; Item No. 1.5c, County Special Permit No. 04070; and Item No. 1.5d, County Preliminary Plat No. 04032 were removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 05007, unless appealed to the City Council within 14 days.

**SPECIAL PERMIT NO. 1006F**  
**TO ADJUST THE FRONT YARD SETBACK**  
**FOR AN EXTENSION OF AN ATTACHED GARAGE,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**S. 70<sup>TH</sup> STREET AND FOREST LAKE BLVD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the Planning staff.

Brian Will of Planning staff submitted revised conditions of approval, deleting Conditions #2.1 and #2.1.1 which require consent from the homeowners association, which is not proper and should be removed.

Proponents

**1. Duane Thomas**, one of the owners of the property, agreed with the revised conditions of approval.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, with the amendment deleting Condition #2.1 and Condition #2.1.1, seconded by Sunderman and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**SPECIAL PERMIT NO. 05008,**  
**WEST VAN DORN HEIGHTS COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 70<sup>TH</sup> STREET AND W. VAN DORN STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda at the request of the Planning staff.

Rick Peo of City Law Department presented proposed amendments to the conditions of approval to clarify the new process on Build-Through Acreages where a community unit plan is approved that has initial development of a portion of the acreage component with a shadow plat for future resubdivision to higher density plus an urban reserve area for future replatting and higher density at such time as city utilities are extended to the area.

Condition #1 has been revised to clarify that this is a present and future development process; the second condition being revised deals with transfer of maintenance to the homeowners association, incorporating the new requirements in the code.

Proponents

**1. Brain Carstens** appeared on behalf of **Aspen Builders**. He had no objection to the revised conditions of approval; however, he requested a two-week deferral for advertising an additional lot. There was a mistake when the density calculations were done and the developer wishes to capture one extra dwelling unit, so they will be submitting a revised plan showing an additional lot.

Carlson moved to defer, with continued public hearing and action scheduled for March 30, 2005, seconded by Carroll and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'.

**CITY SPECIAL PERMIT NO. 04069 and  
COUNTY SPECIAL PERMIT NO. 04070,  
WHITETAIL RUN COMMUNITY UNIT PLAN  
and  
COUNTY SPECIAL PERMIT NO. 04070 and  
COUNTY PRELIMINARY PLAT NO. 04032,  
WHITETAIL RUN,  
ON PROPERTY GENERALLY LOCATED  
AT S.W. 14<sup>TH</sup> STREET AND W. BENNET ROAD.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda at the request of the Rick Peo on behalf of the City Law Department.

Rick Peo of the City Law Department advised that this is a build-through acreage development and he has proposed changes to the conditions of approval on the community unit plan and preliminary plat in the city jurisdiction to reflect the nature of the future development of the property and transfer of maintenance responsibility to the homeowners association.

Proponents

**1. Brian Carstens** appeared on behalf of the developer, Full House, LLC, and agreed with the revised conditions of approval.

There was no testimony in opposition.

**SPECIAL PERMIT NO. 04069  
ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, as revised by the City Law Department, seconded by Carroll and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**PRELIMINARY PLAT NO. 04031**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Carroll moved to approve the staff recommendation of conditional approval, as revised by the City Law Department, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**COUNTY SPECIAL PERMIT NO. 04070**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Carroll moved to approve the staff recommendation of conditional approval, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the Lancaster County Board.

**COUNTY PRELIMINARY PLAT NO. 04032**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Carroll moved to approve the staff recommendation of conditional approval, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the Lancaster County Board.

**CHANGE OF ZONE NO. 05012,**

**WOOD BRIDGE PLANNED UNIT DEVELOPMENT,**

**ON PROPERTY GENERALLY LOCATED**

**AT PINE LAKE ROAD AND HELEN WITT DRIVE.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Carlson, Pearson, Carroll, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Proponents

1. **Brian Carstens** appeared on behalf of **SouthPointe Christian Church and Big Red Storage, LLC**, for this Planned Unit Development on the southeast corner of Helen Witt Drive and Pine Lake Road, immediately to the west of the existing Super Saver and some retail strip shops. This proposed PUD is a mixed use of a church, two 6,000 sq. ft. office buildings and mini-storage units on the southeast corner of the property. The developers have worked with the staff on this proposal for quite some time.

Carstens advised that Big Red Storage, LLC, will buy the eastern half of the property from the church and the church will use those funds to construct the church in 2005-06.

Carstens submitted a proposed amendment to delete Condition #1.2.10, which requires supplemental information on how the church is going to proceed and move forward with construction. Carstens believes that the staff supports deleting this condition.

Carstens proposed to add Conditions #1.2.11 and #1.2.12, in response to their discussions with the Housing Authority next door to the west. These conditions relate to erosion control and seeding of the future phase II areas of the church.

**2. Tom Huston, 233 S. 13<sup>th</sup> Street,** appeared on behalf of **Lincoln Housing Authority, and Wood Bridge Limited Partnership**, which collectively own the 130 unit multi-family project directly west of the subject site. There is a letter in the record from Larry Potratz on behalf of the Housing Authority. The Lincoln Housing Authority manages the Wood Bridge Apartment project. This property was originally owned by the Housing Authority and it was always contemplated to be a multi-family project of some type, but over the last several months the Housing Authority has worked with these developers and the Housing Authority is not in opposition. The three issues which they have worked out with the developer deal with capacity of the existing drainage structure. The Housing Authority supports Condition #1.1 contained in the staff report in which Public Works requested additional information on the existing carrying capacity and looking at strengthening the on-site detention. The Housing Authority also supports the additional Condition #1.2.11, which deals with the soil erosion and sediment control. That had been an ongoing problem. They are trying to protect the detention cell from further sedimentation. The Housing Authority is also in support of the additional Condition #1.2.12, which deals with additional seeding obligations for the phase II area of the church.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Carroll and carried 8-1: Sunderman, Krieser, Taylor, Larson, Carroll, Marvin, Carlson and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 05014**  
**FROM R-7, R-6, R-5 AND R-4 RESIDENTIAL**  
**TO R-2 RESIDENTIAL AND P PUBLIC USE,**  
**ON PROPERTY GENERALLY LOCATED**  
**FROM F STREET TO SOUTH STREET,**  
**S. 13<sup>TH</sup> STREET TO S. 27<sup>TH</sup> STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Krieser, Larson and Bills-Strand (Carlson declared a conflict of interest).

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted two letters in opposition, an additional 21 letters in support and a letter in support from Police Chief Tom Casady.

Czaplewski also submitted a revised legal description. The description for this area continued to evolve while the staff report was being finalized and Exhibit B is a legal description that matches the map in the staff report on p.213. The legal description in the report includes some areas that the applicant and Planning Department agreed to remove from the application.

Exhibit C represents another legal description, which removes some lots on the south side of A Street so that the entire strip along the south side of "A" Street would remain R-6. Czaplewski believes the Near South Neighborhood Association has agreed to Exhibit C as the legal description for this change of zone.

There are no longer any changes from B-3 to R-2. There are several properties changing to P Public Use.

In addition, the Near South Neighborhood Association has requested to remove several additional properties from this application, which Czaplewski marked on the map. The additional changes include two lots that remain R-5, and four lots and another block face that remain R-6.

Bills-Strand commented that it looks like a lot of spot zoning.

Pearson recalled that this is something similar to what was done about six months ago over by South Street. Czaplewski believes that there were a couple of areas ultimately added by City Council in that case, as opposed to removing any.

Proponents

**1. David Witters**, 1908 C Street, Board member of Near South Neighborhood Association and Chairman of the Zoning Committee, testified on behalf of the Association in support. The purpose of this change is to align the properties in Near South more close to their actual use:

- The areas that are predominantly single family would become R-2;
- the areas predominantly multi-family would not be changed;
- the P designations are for the park areas;
- the intent is to maintain the current balance of density, with a nice mix of both multi-family and single family homes;
- to maintain and protect the historic properties in the area; and
- to encourage revitalization and investment by all property owners.

Witters then discussed the process that the Association went through, including inviting the neighbors to attend the Board meetings. The separate areas that are predominantly multi-family were identified and have been left alone. They did attempt to keep the blocks together. The boundaries were a judgment call and it was difficult because of the mix of single family and multi-family on the same block. The Board then worked with the Planning Department in coming up with the boundaries and the Association incorporated some of the changes recommended by the staff. At that point, a letter was sent to all of the property owners and they had a public meeting; which resulted in a few other modifications. The Neighborhood Association is requesting that the Planning Commission approve Exhibit C, plus the additional changes submitted today.

What does this mean for property owners? Existing single family homes will enjoy better protection; multi-family will be designated nonstandard and will receive protection defined by zoning regulations, including grandfathering and the current use can be allowed to continue and can be sold as is. They can add on and extend as long as they meet the setback requirements. They can rebuild if they remain within the setbacks. If it would burn completely to the ground and their footprint would exceed the setbacks they can apply for special permit.

In summary, Witters explained that this application has been two years in the process; they have worked with the neighbors; all of the property owners are protected; the historic properties are protected; and it is good for the neighborhood.

Bills-Strand inquired whether Witters believes that all R-4 should be changed to R-2 anywhere in Lincoln. Witters explained that they want to protect the historic homes and keep them from being cut up or razed, and the R-2 will provide that. He would not say that is true for all areas. The Mt. Emerald district has already been protected by changing the zone previously.



**2. Greg McCown**, 1970 B Street, testified in support as a real estate agent, a landlord and a resident in Near South. There is no other area in Lincoln where he would rather live. It is close to a vibrant downtown, the mixed use environment is very nice, and the historic character that the Near South has is undeniably a benefit. He has sold many homes in this area, and within the last 2-4 years there has been a very strong movement of families coming back into the area and looking for affordable housing, which Near South does have. This change of zone allows confidence to these families that move in, showing that the community has dedicated themselves to protecting these historic dwellings.

As a landlord, McCown hopes the increased pride of ownership will be seen throughout the neighborhood. Many renters enjoy the historic aspect.

As a property owner, McCown explained that he purchased a duplex for \$69,000. He de-converted the house as his family grew. The conversion did not reduce the value of the home. It actually increased by \$15,000 to \$20,000, and he sold it two years ago for \$187,000. It has been found that de-conversion does have a positive impact on the values.

By encouraging both home ownership and rental opportunities, McCown suggested that this change makes the neighborhood better for everyone involved.

Carroll suggested that reducing the density reduces the ability for affordable housing because it reduces the availability of rentals, duplexes and townhomes that can be built in the area. McCown believes the density is about 7.6 dwelling units/acre, as opposed to some of the suburban areas that are 3 dwelling units/acre. The Near South residents are happy with the situation as it is. He does not believe this change necessarily removes density.

If the mix is acceptable now, Carroll does not understand why it needs to be downsized to the density of R-2. McCown explained that they are encouraging this status quo. They are not looking to reduce the densities. Carroll suggested that R-2 does reduce the density. McCown pointed out that duplexes can exist within the R-2. The trends that we see may inevitably decrease the density because there are some homes that are better suited for the de-conversion, but he does not believe that will affect the overall densities that much.

Pearson inquired as to how many new homes were built in this area in the last five years. McCown did not know.

Marvin asked whether McCown agrees that the area is to be fully built. There appear to be no more than six vacant lots available nor lots large enough for multi-family development. McCown agreed with the statement in the staff report. And Chief Casady agrees that higher density brings some issues and some problems. The Near South Neighborhood is looking for status quo.

Carroll inquired what people are told who purchased multiple lots banking on R-5 and R-6 zoning. McCown has never entered into that situation; however, from his own experience, he has never had an investor look to buy several houses in a row for future development. Carroll inquired whether the Association came across people that have lots in multiple ownership.

McCown was not involved in setting the boundaries for this change.

Bills-Strand asked McCown whether people ask about the zoning when they are looking at houses to purchase. McCown agreed that most people do not. Bills-Strand then referred to 19<sup>th</sup> and Dakota, where there is a 4-plex, a duplex, single family and three single family across the street. She asked McCown whether he believes there is a difference in values compared to the Near South neighborhood. McCown stated that he has had to adjust values many times because of the proximity to apartments.

Bills-Strand further pointed out that 19<sup>th</sup> and Dakota is zoned R-4 with a wonderful 4-plex and duplex and those houses sell like hot cakes in that area. She thinks there is a use for R-4 zoning. McCown agrees that there is a use throughout Lincoln, but the Near South has an abundance of historic context that has an intrinsic value for the community.

**3. Doug Naegele**, 1805 B Street, testified in support. He appreciates the historic, older homes and what they can provide that cannot be provided by a newer home. He restored the 80-year-old home at 1805 B Street, which he believes has helped restore the neighborhood.

**4. Matt Hanson**, 1970 B Street, Apt. #4, testified in support as a renter. He believes that this change respects the historic mixture of single family and multi-family dwellings in the neighborhood, and helps to protect the historic integrity of the single family homes, which is one of the reasons he enjoys living in the neighborhood.

**5. Bob Kuzelka**, 1935 A Street, testified in support. He has lived in the neighborhood since 1969, and he has owned property at 1935 A Street since 1976. He expressed his support for this downzoning with some questions, concerns and suggestions. He is especially impressed with the downzoning in three subareas he marked on the map. His concern is with the remaining L-shaped subarea on the A and 18<sup>th</sup> Street corridors. This is a very mixed development area and certainly is not as homogenous as the other areas. Therefore, this subarea needs special consideration and perhaps a more unique zone than R-2. Kuzelka suggested it was clearly a poor choice when Near South was zoned R-5 and R-6. And we need to make sure that the blanket downzone to R-2 is not an equally poor choice.

Kuzelka then referred to two conversions near A and 18<sup>th</sup> Street, one being a duplex and one a tri-plex. Under the combination of existing city ordinances and codes and the new R-2 zoning, it would be impossible to rebuild these conversions. Yet both are historic and as much of the unique fabric as the house at 20<sup>th</sup> & Washington or the Castle at 19<sup>th</sup> and B. This bar to reconstruction would be a significant financial loss and property value to these property owners. He believes there are a lot of instances like this in this change of zone.

Kuzelka encouraged the Commission to approve the downzoning, but he would propose to develop a special exemption for unaltered buildings (with the exception perhaps of number of units) that were constructed before a certain date, such as 1930. Then if something happens, they could be rebuilt in the same lot footprint with the same building envelope. Such exemption would be subject to the review and approval of the Historic Preservation

Commission. If we are interested in preserving the historic aspects, Kuzelka believes there is a need to think about more than just downzoning.

**6. Tim Francis**, 2511 T Street, testified in support. He lives in a R-6 zoned neighborhood and has two investment properties in R-6 in the Near South. He has represented sellers and buyers in both neighborhoods. He is interested in economics and supports this downzone and how it affects the neighborhood and the quality of life. A Street can absorb a certain amount of density and tip the scale away from the homeowners or the investors. The higher the density, the less maintenance. Landlords benefit greatly when their property is adjacent to owner-occupied homes. It is discouraging to try to sell an over-developed block with too much density. This change will benefit investors as well as homeowners. Maybe the R-6 was something that was “given” to the properties several years ago, and maybe we have now achieved the right level of density.

**7. Kathy Beecham**, 2540 C Street, testified in support. She chose Near South because of the nice diversity of the homes and the rentals. She believes there are great rental opportunities in the Near South and does not believe we need to lose any more historic homes to preserve that opportunity. This change protects the existing apartments as well as the historic homes. This does not try to reduce density, but to keep density from increasing further. They do not want to lose homes to more apartments. The Comprehensive Plan does put great emphasis on affordable housing. This plan helps provide more security for a homeowner’s investment. People will be encouraged to invest in older homes if they feel a little bit more protected. Near South is a part of our history and it is part of Lincoln’s heritage. We owe it to the next generation to be good stewards of our history and preserve the buildings for the future.

**8. Wynn Hjermstad**, Community Development Manager of the Urban Development Department testified in support. The Urban Development Department advocates for older neighborhoods; one of the missions of Urban Development is to preserve and protect older neighborhoods. Many of our older neighborhoods are plagued by the problems created by unplanned density. Urban Development is not opposed to density when it is planned. In a lot of our older neighborhoods we see residential streets lined with cars because single family homes have been converted or slip-ins have been built.

Another one of the missions of Urban Development is to promote home ownership because we know that home ownership stabilizes neighborhoods. This change of zone will help preserve and protect this very important neighborhood.

Bills-Strand asked for Hjermstad’s opinion as to the purpose of R-4 zoning. Hjermstad did not know. Bills-Strand believes that R-4 is a transitional zoning and we’re skipping it going from one extreme to another. Hjermstad pointed out that there has been a lot of decline when we plop a high density on top of single family zoning. Taking the high density away is not going to reduce what is already there, but it prevents any more, whether it be R-2 or R-4, etc. Bills-Strand suggested that skipping all the way from R-7 and R-6 to R-2 adds to the problem by taking away some of that affordable housing stock. She believes this creates a problem

we are not foreseeing right now. Hjermstad agreed that we don't want to create problems trying to fix a problem, but because the area already is so developed, she is not sure it is as great a concern.

### Opposition

**1. Deanna Elikor**, 4030 N. 57<sup>th</sup>, testified in opposition. She has an interest in property at 2430 B Street. The current Comprehensive Plan indicates that this area should be a high density area and the current zoning reflects that general condition. The general concentric planning, which may or may not be a theory applicable, indicates that the Downtown, inner rings and middle rings of the city will be the higher density growth areas. So over the past 30 years this issue has been brought up and things have been changed according to rather trendy issues more so than the protection of the interests of the neighborhood. She has been interested in historic planning and applauds protecting the historic value of this neighborhood; however, when this neighborhood was initiated, the city was of a much smaller size, and as the city has grown it has encompassed that neighborhood and other methods have been used to protect the historic flavor, including the R-C overlay and historic overlay districts.

Another trend is that there is lack of affordable housing, so maybe we need more housing and more available units in this neighborhood. Economic trends that affect the market are also being overlooked. There is a lot of influx into this neighborhood from other neighborhoods which have lost their densities, so this has brought higher densities and more cars, but that is happening in all areas of the city.

The trend to downzone is apparently happening in this city because this is the third area of which she is aware where a significant number of property owners have faced downzoning.

Near South is a neighborhood that wants to preserve their flavor but yet the people who have invested would also like to preserve the value of their property. She believes this creates a bias toward apartment owners. There was an R-C overlay on the northeast corner of A and 15<sup>th</sup>, which is a good representation of what an apartment building can be in the neighborhood. She would like to see equal protection and that the taking issues not be ignored.

Elikor believes that downzoning is bad policy for affordable housing and fails to accomplish the goals of the Comprehensive Plan.

**2. Robert Chapman**, 7150 S. Wedgewood Drive, testified in opposition. He owns both single family and multi-family properties in Near South. He is concerned about this proposal. If you study it in detail, the real purpose is to prevent additional multi-family and business units to be built in this area. He believes this is bad public policy. He has seen no data that substantiates any need for the change at all. There are a lot of questions that need to be asked and answers found before decisions are made.

Chapman believes the issue is “choice”. If everything is downzoned from all the different options available to R-2, it removes choices. It is the American way to have choices. Choices give us flexibility. Downzoning to R-2 leaves no flexibility.

Chapman also discussed the impact on Downtown. This Near South area has to feed the business and retail of Downtown Lincoln to keep it strong. Where is growth in Lincoln going to go? So far, it has been moving out to the outskirts of suburbia. We are forcing people to go out there because we have limited housing close to Downtown and, consequently, Downtown Lincoln is suffering.

Chapman also believes that “change” is another concept. The demographics need to be investigated. How many homes in Near South really contain families? We know that large families are kind of a trend of the past and smaller families are a trend of the future. We look at quality of life – what is the quality of life in Downtown/Near South as compared to the suburbia area? We need to know why people go to suburbia. We need answers on how to handle traffic and the number of cars. Why is New York City not covered with cars on the street? Could this be true in Lincoln? Is our mass transit inadequate?

Chapman also pointed out that there is great expense in rehabbing houses. The historical houses are beautiful in Near South and should be maintained, but he does not believe we need to go to R-2 zoning to protect them. We need to identify the number of homes that are deteriorating in Near South and how many new homes have been built in Near South.

Chapman also pointed out that his multi-family pays twice as much in taxes a year as his single family home. If we want to make property worth more money, we need to increase the value of that property, and one way to do that is to make it more productive and more efficient as a multi-family. He believes there are ways to make multiples look very handsome and really add to the decor of the area.

#### Response by the Applicant

Witters believes that the concept of having density in the center of the city is fine, but there has been quite a bit of development in Downtown for housing such as the Old Fed building, Haymarket, and 10<sup>th</sup> & O, and the University has been adding apartments to their property. Antelope Valley will add opportunities as well. This change does not shut off density—we just want to maintain it. Chief Casady points out that higher density relates to higher crime. It taxes our infrastructure to support the density. Near South was designed as a single family neighborhood. This will help preserve the historic properties. Apartment vacancy rates have more than doubled in the last five years.

Witters does not believe there is a place for R-4 in Near South. There has been over-development in the R-5 and R-6 areas. The neighborhood is fully developed. There is plenty of affordable housing in existence. He does not see the tax base being impacted by this change since everything is grandfathered.

Staff questions

Carroll inquired as to the number of parcels that will become nonstandard or nonconforming as a result of this change. Czaplewski did not know how many may change to nonstandard. There are some nonstandard now under the current zoning and this will remain the case. There are most likely going to be additional lots that will become nonstandard. He believes there are eight commercial uses that are now nonconforming that will continue to be nonconforming.

Carroll inquired as to the number of multi-family units that have been built in this neighborhood in the last two years. Czaplewski did not have that information.

Bills-Strand noted that the neighborhood design standards that were recently approved were made to protect these neighborhoods from apartments that do not blend in or new houses that do not blend in. Why jump all the way to R-2? Maybe we should just go from R-4 to R-2 in every neighborhood. No more multi-family in any neighborhood. Don't we want mixed use? What's wrong with R-4? What's wrong with the duplexes with a little bit less stringent rules? Czaplewski offered that the difference is that there would be more potential to add density to the area with R-4 zoning. That is why the applicant has chosen R-2.

Bills-Strand also suggested that when a property becomes nonstandard, it increase the cost of housing and loss of investment power.

Marvin Krout, Director of Planning, approached to differentiate between nonstandard and nonconforming. The whole idea of nonstandard in the R-2 is to create a situation that is more akin to a community unit plan. In most cases, you don't need a special permit to build a nonstandard welling back to the previous footprint. There may be some situations where a duplex has a 10' setback as opposed to a 5' setback, which is a problem. Krout suggested that there are solutions to making sure that it is easier to rebuild an existing duplex or multi-family unit in an area like this that was built under previous standards, but that would require an amendment to the R-2 zoning district. People are saying there is a flavor and character to this mix of uses and if every property that is out there is subject to the specifications of multi-family, you won't get the same stability and you won't get the same reinvestment and you won't keep the mix of housing that is there today. R-4 relates to eight bedrooms on a single family lot. There are a lot of other areas identified for high density close to Downtown. The density and mix of uses in this neighborhood is something that should be preserved. You are always balancing different goals when dealing with the Comprehensive Plan. The neighborhood is not attempting to reduce the density, but retain the mix and density that is there today.

Krout also pointed out that the Comprehensive Plan talks about accessory apartment units in single family neighborhoods, and directs the staff and Planning Commission to consider that. That is different than adding density by R-4 zoning. It is more controlled because you are dealing with something that is truly accessory. That is another opportunity to add density but in a more careful way than to zone it to R-4.

Pearson inquired as to the history of zoning in Lincoln. Ed Zimmer of Planning staff stated that zoning grew out of an effort by the Chamber that first proposed a plan about 1923, and then waited for Supreme Court rulings to authorize that zoning could be employed. Zoning was not implemented and enforced in Lincoln until the late 1920's.

Pearson inquired whether it would be safe to say that zoning has increased in density in the center of town over the years, or would it have likely been immediately zoned higher? Zimmer explained that the categories have changed. There were apartment zones in the original scheme, and he believes they applied mostly closer to Downtown in the 17<sup>th</sup> to 13<sup>th</sup> corridor. He believes the Mt. Emerald area was single family and duplex zoned until some of the post World War II changes.

Zimmer believes the R-4 zoning category came out of the 1979 zoning update and part of that included a duplex category which was roughly the equivalent of R-4. In the original earliest schemes, there were single family, duplex and multiple zones, so there is a long tradition.

Sunderman inquired about the parking requirements of R-2, R-4, and R-5. Czaplewski advised that single family dwellings in R-2 and R-4 require two off-street parking spaces per dwelling unit for both single family and duplex. The R-5 and R-6 requirement is 1.75 spaces per unit. The R-7 and R-8 requirement is one space per unit.

Bills-Strand asked about the nonconforming businesses. Czaplewski stated that there are eight commercial uses that are now nonconforming and would continue to be so.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Taylor moved approval of Exhibit C, with the changes submitted by staff today, seconded by Marvin.

Taylor is happy for this, especially in terms of this happening with the Planning staff in support rather than in opposition as in the past. He applauds the Association for making this application and doing a good job of preserving good housing in the Near South.

Marvin referred to Chief Casady's letter. Chief Casady believes this change of zone works to help reverse the trend of more crime. It creates trends where people want to move into the neighborhood and preserve the neighborhood. Marvin does not want people to move out of these neighborhoods. We need people to move back into the older neighborhoods. The zoning change that caps the density is something that is appropriate.

Larson stated that he will vote in favor; however, he is concerned that we keep downzoning the areas around Downtown and between Downtown and the suburbs. He believes that we are going to have problems with density if we keep on doing this. This is a huge area to downzone, but because it has a great deal of historic value, he will vote in favor.

Carroll commented that he understands what the neighborhood is trying to do, but he wishes there would be more transition between R-2 and R-6 and a better contiguous map. This causes confusion.

Pearson stated that she will support the change. She agrees that the map is imperfect, but we have neighbor after neighbor testifying in favor, and the only two in opposition do not live in the neighborhood. She understands that it will stabilize the density as opposed to increase the density.

Bills-Strand stated that she will vote against the change of zone. She loves this area, but she does not think we need to go to R-2. It is too big of a jump. It is going to put houses on nonconforming and nonstandard lots. There is a need for this density. There is a need for more housing, which is why there is so much going on in the Downtown area. She does not think going all the way to R-2 is the right thing to do. She reiterated what she has said previously, and that it that there needs to be a special committee to look at making some recommendations for zoning changes to protect this area instead of these blanket downzonings. She does not think it is the right step

Motion for approval carried 6-2: Taylor, Marvin, Pearson, Carroll, Krieser and Larson voting 'yes'; Sunderman and Bills-Strand voting 'no'; Carlson declared a conflict of interest. This is a recommendation to the City Council.

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**(Editorial Note:** At the end of the meeting, the following clarification was made by the Director of Planning and the Chief Assistant City Attorney:

Marvin Krout, Director of Planning, clarified that a variance of lot standards to reduce the setback is not a "nonconforming" use. It is an issue of a "nonstandard lot" in the R-2 district and a variance of the zoning standards. The standards that the Board of Zoning Appeals must apply are different than "nonstandard", and the rules for rebuilding are different.

Rick Peo, Chief Assistant City Attorney, stated that the city does not have variances for nonconforming uses, only area variances. Basically, the city's category of nonconforming is that the use is not allowed in the district in which it is located. Nonstandard is a category of nonconforming, meaning the use is permitted but the lot is deficient for some particular reason. Unfortunately, we have created a fictitious nonstandard use with these downzonings and, in the long term, we need to correct that situation so that we deal with nonstandard issues differently from nonconforming.

Krout also suggested that to be nonstandard in an R-2 district with a multi-family use is not as onerous as a typical nonconforming use in terms of rebuilding, insurance requirements, etc.)

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**CHANGE OF ZONE NO. 05011**  
**FROM R-3 RESIDENTIAL TO**  
**B-2 PLANNED NEIGHBORHOOD BUSINESS**  
**and**  
**USE PERMIT NO. 05003,**  
**VINTAGE HEIGHTS RETAIL CENTER,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 84<sup>TH</sup> STREET AND OLD CHENEY ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit.

Ex Parte Communications: None.

Proponents

**1. Bob Lewis of Pine Lake Development, LLC**, testified as the applicant for this proposal. This property is located at the southeast corner of 84<sup>th</sup> and Old Cheney Road. It was shown as part of the Vintage Heights original preliminary plat to be a neighborhood center in 1997. Eight years later, the developer is now in the process of bringing an application to develop this into a neighborhood center. 84<sup>th</sup> and Old Cheney Road construction may be completed in the next year and will allow the developer to start this project.

This proposal shows six lots in B-2 zoning with a 250,000 sq. ft. neighborhood center. Lewis requested that Condition #1.1.9 be deleted, which requires that no lot shall have less than 5,000 sq. ft. of floor area.

The developer has met with the neighborhood association at their monthly meetings three or four times to discuss this development.

The outlot will be deeded to the homeowners association in the future so that they have control of the existing trees that will be maintained and the outlot.

Marvin asked about the residences that back up to Outlot A. Lewis stated that he has not met personally with everyone of them, but the developer has been on the homeowners association agenda a number of times. Lewis reiterated that this property was approved as a neighborhood center in the Comprehensive Plan back in 1997, so those residential property owners were aware of the use.

There was no testimony in opposition.

Tom Cajka of Planning staff agreed with the deletion of Condition #1.1.9, as requested by the applicant.

**CHANGE OF ZONE NO. 05011**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Marvin moved approval, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**USE PERMIT NO. 05003**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Marvin moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #1.1.9, seconded by Pearson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 05017**

**FROM I-1 INDUSTRIAL TO R-4 RESIDENTIAL**

**and**

**SPECIAL PERMIT NO. 05009,**

**FIELDSTONE CENTER COMMUNITY UNIT PLAN,**

**ON PROPERTY GENERALLY LOCATED AT**

**N. 26<sup>TH</sup> STREET AND OLD DAIRY ROAD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Approval of the change of zone and conditional approval of the community unit plan.

Ex Parte Communications: None.

Proponents

**1. J.D. Burt of Design Associates**, 1609 N Street, appeared on behalf of the applicants, **Bob and Vickie Rokeby, Larry Schmieding, Fieldstone Owners Association and Boyce Construction**. The area is currently vacant property except for the Baymont Motel. The property is located at the intersection of 26<sup>th</sup> Street (a private roadway) and Old Dairy Road. This is the remnant parcel of Fieldstone Center Addition. The R-4 zoned area will be a condominium development. The Planning staff preferred the straight zoning as opposed to a PUD overlay.

The R-4 zoning will allow 74 units on approximately six acres. The proposed site plan shows a total of 70 units with access from 26<sup>th</sup> Street. This application proposes to eliminate the private roadway north of the hotel and include that ownership with the R-4 district parcel to allow frontage to the community unit plan back to the private roadway, which is 26<sup>th</sup> Street.

Burt advised that they did meet with the neighbors, who support this as opposed to potential industrial in their back yard. The neighbors did have concern about pedestrian access. Irving Street will remain closed but will be used to accommodate pedestrian access. There are sidewalks extending from Irving Street and an east/west sidewalk that would extend back across the site and down along the south side of the existing private roadway. These sidewalks will now be part of the community unit plan.

As far as conditions of approval, Burt requested that Condition #2.1.1.1 be deleted (and Condition #2.1.1.4 be amended accordingly), which requires a second access easement. Burt submitted an exhibit showing other developments that have only one access. There are numerous sites with well in excess of 40 or 70 units with only one access. This proposal does not provide a street. This is a single lot with 70 units on the one lot.

Burt also requested that Condition #2.1.1.3 be deleted, which requires sidewalks along the north side of the access drive into the property up to 26<sup>th</sup> Street. Burt explained that a driveway is shown on the south side in line with the sidewalk connection on Irving Street and already shows a pedestrian easement. Burt does not believe that much will be gained by putting another crosswalk in and an additional sidewalk.

**2. Jerry Boyce**, owner of **Boyce Construction**, 4631 S. 67<sup>th</sup> Street, referred to a similar project which he developed just north of 70<sup>th</sup> and Adams called Uniced Place. Prior to that, he developed a similar project called Garber Point at 2700 N. 1<sup>st</sup> Street. In both situations, the occupants really enjoyed and preferred the individual private entrances into their units. The ground floor enters off of a covered patio and the upper units have doors in the front. This project is his version of “new urbanism”, with an inviting clubhouse centrally located and easily accessible by all the residents, with buildings surrounding the clubhouse located at the end of the main entrance. There will be a small workout room and kitchenette, and a game room to accommodate meetings or family functions; on the back of the clubhouse is a covered patio area for picnic tables and grills; in the central portion of the open common area he proposes to keep it as open passive green space.

With regard to the request of the Parks Department to include a basketball court, Boyce indicated that he would like to put the basketball court in the corner near the detention area to keep it away from the younger play area.

Boyce stated that all parking and garages are behind the buildings and pretty much out of sight. There is a garage for each unit tied to the ownership of the unit, with door openers. They do have a few extra garage stalls and he would like to screen the trash containers in one of those stalls.

This will be a condominium project with individual ownership.

**3. John Fink**, 6266 Cornflower Drive, realtor with Home Real Estate, testified in support, advising that the sixteen Uniced Place condominiums sold in less than 70 days. This project adds garages so he expects them to go quickly. Fink testified as to the inventory of single family homes and condominiums on the market, indicating that there is just a three month supply of 2-bedroom facilities in Lincoln. These units will be selling at around \$90,000.

**4. Carol Brown**, 2201 Elba Circle, testified in support on behalf of **Landon's Neighborhood**, which is very excited about this development. She believes this develops a community in itself. The residents are interacting with each other with the playground equipment and the basketball court, etc. She has talked to Mr. Boyce about a swing and he has agreed to do that. The neighborhood is in favor of the walkway as they do not want Irving Street to be opened. It will allow the kids to walk to elementary school and opens it up for the residents to walk to the commercial businesses on 27<sup>th</sup> Street. This generates a walking community. Marketing the development as two-bedroom owner-occupied gives more comfort to the neighborhood. She pointed out that the Uniced Place only has one access point.

Brown urged that there needs to be a traffic signal at 27<sup>th</sup> and Old Dairy Road. Rod Kush has moved into the old Payless Cashway, with LES in the back; then there is the Golden Corral, Applebee's, and Sonic which create much congestion and near accidents at that corner.

Brown believes that the commercial office space is suitable for small businesses which the neighborhood needs and supports. Brown also believes that the Regalton residents are in support.

### Opposition

**1. Larry Peterson**, 2444 Dodge Street in Regalton Association to the north, testified in opposition. He is a member of the Board of Directors of the Regalton Homeowners Association. Regalton consists of 75 units directly to the north and the developers have not talked with the Regalton Association. He is concerned about the single access and believes they should comply with the regulations. Peterson requested that the zoning requirements for a second access be upheld on this project.

### Staff questions

Pearson asked staff to discuss the second access issue. Becky Horner of Planning staff stated that there is potential for a second access through either of the two commercial lots or back to the west through Irving Street. The second access would be for emergency purposes.

### Response by the Applicant

Burt pointed out that this is not a subdivision. It is a zoning application and he believes the proposal is in the realms of compliance. As far as the second access, the City Council has

already addressed the extension of Irving Street and he is certain the neighbors would not be in favor of an Irving Street extension. The developer has discussed the easement potential with the property owners and they are not in favor of the second access. They do not want the motel clients to be moving back and forth through the neighborhood, and the motel does not want the residential units traveling through the motel parking lot. Any encumbrance with an easement across the property would severely damage the value of the real estate, resulting in a shorter list of buyers and it conflicts with the traveling public.

With regard to not contacting the Regalton Association, Burt explained that Carol Brown is their contact, and it was his understanding that she initiated conversation with those in Regalton that about this project. There were also two Regalton owners at the meeting with the developer. Burt apologized for not including Mr. Peterson. Burt also pointed out that there is a 12 to 17 ft. grade difference between this proposal and Regalton.

These will be two-story buildings.

**CHANGE OF ZONE NO. 05017**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved approval, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 05009**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Carlson and failed 4-5: Krieser, Taylor, Larson and Bills-Strand voting 'yes'; Sunderman, Carroll, Marvin, Carlson and Pearson voting 'no'.

Pearson moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Carlson moved to amend to delete Condition #2.1.1.1 and amend Condition #2.1.1.4 to add, "except second access", seconded by Marvin.

Marvin lives near the examples that were given and he does not believe the second access is necessary.

Carlson noted that if the access street was blocked, a fire truck could go through the hotel parking lot to get to the street.

Motion to amend carried 6-3: Taylor, Larson, Marvin, Carlson, Pearson and Bills-Strand voting 'yes'; Sunderman, Krieser and Carroll voting 'no'.

Main motion, as amended, carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is final action unless appealed to the City Council within 14 days.

**SPECIAL PERMIT NO. 05002,**  
**FOREMAN RIDGE ADDITION COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 12<sup>TH</sup> STREET AND W. DENTON ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Rick Peo of the City Law Department submitted revisions to the conditions of approval to clarify that the approval of this community unit plan includes the future transitional lot to be developed at a future date as part of the build-through regulations. The amendments also place a restriction on transfer of ownership maintenance to homeowners association and set forth the terms of agreement for future subdivision.

Proponents

**1. Brian Carstens** appeared on behalf of **Gary and Deb Pickering**, the developers of this proposed AGR community unit plan. They also developed the 80 acres to the south. This is going to be a build-through model. Everybody will buy one buildable lot and one to two nonbuildable outlots from day one. The owners will be able to administratively amend if they would rather build on the other lot. In the future, when it comes time to do the build-through, the owners can subdivide much easier because the lot lines will be in place. This development includes paved concrete streets for future curbing, public sewer, and a package treatment plant on the northern edge that will discharge into Cardwell Branch. They are currently working on the treatment plant with DEQ. Carstens had no objections to the revised conditions of approval.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, with the amendments by the City Law Department, seconded by Marvin.

Pearson commented that this appears to be an ingenious way to work with the build-through and she applauded the developer.

Motion for conditional approval, with amendments, carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**COUNTY SPECIAL PERMIT NO. 05006**  
**FOR A HISTORIC DESIGNATION**  
**ON PROPERTY LOCATED AT**  
**17800 S.W. 2<sup>ND</sup> STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

**1. Max Steinhausen**, 400 West Rokeby Road, appeared as the applicant on behalf of the owner, Dr. Harley Batie. Steinhausen has been researching this property (the Krull House), which was constructed in approximately 1870. It has not been occupied for about 50 years. He has been encouraging the owners to preserve the property. The significance is substantial documentation on its past, including a written history and photographs. This is one of only a few limestone structures that exists today and it is more or less unaltered from the time it was built. The reason for the permit is because it shows that the county recognizes some historic aspect of the property; it allows for separation of the property for sale in the event someone wants to restore it besides the current owners; it creates an avenue of dialog between Building & Safety, the property owners, the public, the Planning Commission and other parties. The special permit allows for options of use beyond the current AG zoning.

Marvin inquired about the County Engineer's comments regarding the extension of S.W. 2<sup>nd</sup>. Steinhausen believes that there may not be an easement now, but in the event that S.W. 2<sup>nd</sup> would be widened, the special permit would allow for that to occur.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, seconded by Pearson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the Lancaster County Board.

**ANNEXATION NO. 04003;**  
**CHANGE OF ZONE NO. 04019**  
**FROM AG AGRICULTURAL TO R-3 RESIDENTIAL**  
**AND B-2 PLANNED NEIGHBORHOOD BUSINESS**  
**and**  
**PRELIMINARY PLAT NO. 04011**  
**WATERFORD ESTATES,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT N. 98<sup>TH</sup> STREET, BETWEEN HOLDREGE AND "O" STREETS.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the preliminary plat, as revised.

Ex Parte Communications: None.

Proponents

1. **Kent Seacrest** appeared on behalf of **Southview, Inc., Ridge Development and various Meginnis family members**. He believes that this is a unique development. It is the first development that will be involved in the Stevens Creek basin after being put into the Comprehensive Plan. This will be first development that will follow the Stevens Creek Watershed Master Plan with the forebays, etc. This is the first major development to meet the new city temporary pump station policy.

Seacrest advised that the developers held six neighborhood meetings. He submitted a motion to amend the Condition #3.2.22 of the preliminary plat to clarify that all purchasers and users of the lots that are located in the floodplain will be notified that they are located in the floodplain.

Seacrest went on to state that this has been a very complex project that started in about 2002 and he expressed appreciation to the staff.

2. **Dan Howe**, 1001 N. 92<sup>nd</sup> Street in Sunrise Estates, and **President of the Sunrise Estates Community Association**, testified in support because the Sunrise Estates owners know that Lincoln is growing and that development is inevitable. They are impressed with the quality of the proposed development; however, they are interested in preserving the setting in Sunrise Estates. He referred to his letter to the Planning Commission dated March 9, 2005, and reiterated the request that 98<sup>th</sup> Street be initially connected to Holdrege Street and that the northern portion be graveled until later phases of the proposed development. Howe also showed photographs attesting to the openness and rural character of the Sunrise Estates



area. The pictures show that the asphalt streets are aged but the county does a very good job of maintaining them. The construction traffic should use 98<sup>th</sup> Street.

There was no testimony in opposition.

Staff agreed with the motion to amend Condition #3.2.22 submitted by Seacrest.

#### Response by the Applicant

Seacrest explained that Mr. Howe is proposing to cut off Avon Avenue, and therefore gravel N. 98<sup>th</sup> Street. Seacrest stated that the developer plans to pave the first south one-third of 98<sup>th</sup> Street in the first phase and will finish as they develop further. The request by Sunrise Estates is to block off Avon, which is a hard surface, and live with the gravel system. Seacrest believes there are two public policy considerations. The city has a strong practice that emergency vehicles should have two hard surface ways to get in and out. The main way is going to be off 98<sup>th</sup> and O, but if something happened, they could get an emergency vehicle through Sunrise Estates and not rely on a gravel system. Sunrise Estates has only one access to Holdrege and their secondary emergency route is through another neighborhood. This developer is asking for a second emergency way in and out of the neighborhood. Seacrest believes that our future generations should be able to drive to their neighborhood without going back out onto an arterial street. There should be more connectivity through the neighborhood to avoid congestion on the arterial and help keep the capacity of the arterial network going. There will also be amenities in Waterford Estates that will serve the Sunrise Estates neighborhood. Seacrest did agree that there will be a covenant of record requiring the builders to go out 98<sup>th</sup> Street at O Street. The graveling would be on a city public infrastructure road. This application with the two hard surfaces fully meets the design standards, and a gravel system does not meet design standards.

#### **ANNEXATION NO. 04003**

##### **ACTION BY PLANNING COMMISSION:**

March 16, 2005

Marvin moved approval, subject to an annexation agreement, seconded by Sunderman and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

#### **CHANGE OF ZONE NO. 04019**

##### **ACTION BY PLANNING COMMISSION:**

March 16, 2005

Carlson moved approval, seconded by Sunderman and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**PRELIMINARY PLAT NO. 04011**

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, as revised, with the amendment requested by Seacrest, seconded by Carroll and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**USE PERMIT NO. 05002,**

**Northwoods OFFICE PARK,**

**ON PROPERTY GENERALLY LOCATED**

**AT N. 84<sup>TH</sup> STREET AND NORTHWOODS DRIVE.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

**1. Mark Palmer** appeared on behalf of the developers. This property is zoned R-T and was brought in in 1996 with the Regent Heights Northern Lights plat and annexation. Palmer agreed with the conditions of approval, except Condition #2.1.1.13, which requires relocation of the entrance drive to N. 83<sup>rd</sup> Street between Northwoods Drive and Rainy River Road or to Northwoods Drive.

**2. Dick Bergt of Architectural Design Associates**, 7501 O Street, #105, explained the driveway location issue. They investigated eight scenarios of locating buildings, parking and drive access. He acknowledged that he did have a fleeting thought of putting the access on N. 83<sup>rd</sup> but his training told him not to do it there because it is too close to the corner. The applicant would like to retain the driveway as shown and it will be landscaped. The applicant believes that the site plan being proposed with the center access works better for parking rather than having people drive from all the way to the other end. There is residential across the street and the driveway would intersect on the curved roadway. There will be two 5,000 sq. ft. office buildings and they will be constructed to be compatible with the buildings in the neighborhood.

Larson clarified that the applicant is proposing to put the driveway on the curvature as opposed to at 83<sup>rd</sup> Street. Bergt concurred. One of the buildings will be a foot clinic and the other is yet to be determined. There should not be any night-time traffic.

**3. Dr. Teresa Bernap**, who will have the foot clinic, stated that she has talked with some of the neighbors and they are happy the property will be developed. Two of the neighbors didn't care where the driveway was located. The property owner across of N. 83<sup>rd</sup> would prefer to have the driveway located on the curve because they did not want the driveway directly opposite their house. The neighbors have a concern about the intersection at Northwoods Drive and N. 83<sup>rd</sup> and they would like to see two stop signs installed. Dr. Bernap's clinic would be open until 7:00 p.m. three days a week. She is hoping to do a family practice clinic in the second building with similar hours and similar traffic patterns.

Bergt clarified that the parking ratios are such that they will support medical offices at this location.

There was no testimony in opposition.

Carroll asked staff to discuss the driveway location. Tom Cajka of Planning staff clarified that the conditions of approval require that the driveway be moved to 83<sup>rd</sup> Street; however, if they located the driveway in the center as shown, they should be able to meet the design guidelines for distance from the intersection. Dennis Bartels of Public Works agreed that they can meet design standards with the driveway as shown. The idea with the driveway at 83<sup>rd</sup> Street was because the commercial traffic going into the residential was a concern. However, with the type of uses being proposed, Public Works can live with the driveway at either location. It is a planning issue and not a design standard issue. Cajka offered that the R-T district is intended to be a transition between commercial and residential. Most R-T districts would have the traffic staying on the major streets. The staff's preference would be to have it come out on Northwoods Drive, but that is not realistic. So, the compromise was to come out to 83<sup>rd</sup> to keep as much of the traffic out of the residential area as possible. Even with the driveway on 83<sup>rd</sup>, it is across the street from the side of a house, not the front.

Marvin inquired as to the traffic counts for two buildings like this. Cajka suggested that it might be 300 cars a day.

#### Response by the Applicant

Palmer reiterated that they would prefer the driveway on the curve because it will flow better with the parking lot. He does not know whether 300 cars is in the ballpark and he will be researching that. They will meet with the neighbors about this location.

#### **ACTION BY PLANNING COMMISSION:**

March 16, 2005

Taylor moved to approve the staff recommendation of conditional approval, with amendment deleting Condition No. #2.1.1.13 as requested by the applicant, seconded by Larson.

Taylor noted that the applicant has visited with the neighbors who will be affected and they do not object to this driveway location.

Motion for conditional approval, with amendment, carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**USE PERMIT NO. 04003**

**FOR 93,500 SQ. FT. OF COMMERCIAL FLOOR AREA**

**ON PROPERTY GENERALLY LOCATED**

**AT N.W. 48<sup>TH</sup> STREET AND WEST HUNTINGTON AVENUE.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Proponents

**1. Mark Hunzeker** appeared on behalf of **M&S Construction**, and presented this proposal for a neighborhood shopping center at NW 48<sup>th</sup> and W. Huntington. Hunzeker had no objections to the conditions of approval, but wanted to confirm for the record the improvements that the developer intends to make at the intersection of N.W. 48<sup>th</sup> and W. Huntington. It is the developer's understanding that they will include a temporary traffic signal at the corner of N.W. 48<sup>th</sup> and Huntington, and widen or taper N.W. 48<sup>th</sup> Street sufficiently to provide left-turn and right-turn access into the site at Huntington. The developer has also been requested to modify the location of the entrance in order to provide at least 200' of stacking for left turns both outbound and inbound for the site.

Marvin inquired about sidewalks. Hunzeker indicated that the developer has made some modifications to the site plan in response to the concerns of Planning and Public Works, and there are going to be sidewalks, definitely along Huntington, and internal sidewalks.

**2. Darrick Rademacher of Olsson Associates** further explained the sidewalks. They have agreed to put in two sidewalks to provide a better pedestrian access as one of the conditions of approval. They will widen the median on the east and west entrances enough to provide a 4' wide sidewalk at least up to presumably what will be a grocery user; however, nothing has been formalized.

**3. Todd Nichols**, 2440 N.W. 41<sup>st</sup> Street, in Ashley Heights, testified in support as President of the Ashley Heights Homeowners Association. However, one concern is the corridor of W. Huntington between N.W. 48<sup>th</sup> and N.W. 46<sup>th</sup>. It is a rather wide Street and there is a small speeding problem out there now. The Ashley Heights Homeowners Association is hopeful that they can work with the city to find some way to control the speeding in that area. Another concern is the intersection of N.W. 48<sup>th</sup> and W. Huntington when it comes to a traffic signal.

N.W. 48<sup>th</sup> Street acts as a barrier to anyone that wants to go across N.W. 48<sup>th</sup> Street. There is wonderful sidewalk access all through the Ashley Heights neighborhood, but there is no way to cross N.W. 48<sup>th</sup> and there are no sidewalks that go down N.W. 48<sup>th</sup> Street.

**3. Craig Ochsner**, 4610 W. Ashley Avenue, submitted a list of names of people who live in the townhome association and two letters in support; however, he requested that the access points be removed from W. Huntington and placed in a location where residents of Ashley Heights will not be affected by the excess noise and traffic. These residents already experience the noise from air traffic and the heavy traffic from N.W. 48<sup>th</sup>. The Air National Guard does jet engine testing over Ashley Heights. Allowing two access points on W. Huntington will result in added noise pollution from delivery trucks and semi's parking on W. Huntington waiting to unload. All of the bedrooms in the Ashley Heights townhomes face W. Huntington. Besides traffic, there is local traffic, traffic from

surrounding neighborhoods and traffic from small local towns northwest and north of Lincoln. He has heard that access points on N.W. 48<sup>th</sup> will cause too much congestion, but he would submit that the same will happen on W. Huntingdon. N.W. 48<sup>th</sup> would provide more turning movements.

### Staff questions

Dennis Bartels of Public Works stated that N.W. 48<sup>th</sup> is proposed to be a four lane divided roadway. In the interim, Public Works believes that turn lanes and the temporary signal are needed.

With regard to access off of N.W. 48<sup>th</sup>, Bartels stated that the long term plan for N.W. 48<sup>th</sup> is a four lane divided roadway. With that amount of traffic, the access to 48<sup>th</sup> will become a right-in right-out driveway which would not facilitate a commercial development. This commercial use was shown from day one in the Ashley Heights development. The only access that was left in that development was Huntington Avenue. There are two driveways shown on Huntington. Bartels believes this size of development could probably be served by one driveway, but Public Works did not object to the two that are shown. The traffic could be moved further from the townhouses if the access were moved as far west as feasible.

### Response

As far as the access on W. Huntington, Hunzeker reiterated that this area has been shown as commercial since Ashley Heights was originally platted. He believes that the developer has already relinquished access to N.W. 48<sup>th</sup> as part of the plat. Access to N.W. 48<sup>th</sup> would be problematic. It would be difficult to place an access to even have a left turn into this site from N.W. 48<sup>th</sup> because of the stacking that would be on the north leg of the N.W. 48<sup>th</sup> intersection.

Hunzeker also suggested that it is no secret that they want to put a grocery store in this shopping center. Trucks that serve grocery stores are generally fairly large, but a grocery

store of this size will not have a lot of deliveries. The trucks need to be able to travel in a counter-clockwise motion so they do need the second access to serve the grocery store.

**ACTION BY PLANNING COMMISSION:**

March 16, 2005

Larson moved to approve the staff recommendation of conditional approval, seconded by Carlson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

**STREET & ALLEY VACATION NO. 04013**

**GENERALLY LOCATED AT S. 13<sup>TH</sup> STREET AND M STREET.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION**

March 16, 2005

Members present: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand.

Staff recommendation: A finding that the vacation does not conform to the Comprehensive Plan.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted a request by the applicant to place this item on pending, awaiting completion of the Downtown Master Plan.

Larson moved to place on pending until completion of the Downtown Master Plan, seconded by Pearson and carried 9-0: Sunderman, Taylor, Marvin, Pearson, Carroll, Carlson, Krieser, Larson and Bills-Strand voting 'yes'.

There being no further business, the meeting was adjourned at 4:40 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 30, 2005.